



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 12796266

Date: JAN. 29, 2021

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a manufacturer of rail transportation systems, seeks to classify the Beneficiary, a project commercial manager, as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish, as required, that the Beneficiary meets at least three of the ten initial evidentiary criteria for this classification. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, the Petitioner has not met that burden. Accordingly, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner currently employs the Beneficiary as a project commercial manager with responsibility for commercial and contractual aspects of its [redacted] integration projects for the [redacted] and [redacted] railroads in [redacted]. The Beneficiary has a bachelor’s degree in civil engineering and a master’s degree in infrastructure - transportation from University [redacted] as well as a master’s degree in management from University [redacted]. Prior to joining the Petitioner in 2018, the Beneficiary was employed by [redacted] from 2011 to 2017 and with [redacted] from 2001 until 2011. His curriculum vitae reflects that he has international experience with public private partnership (P3) and infrastructure projects, particularly in the transportation sector, and has provided advisory and consultancy services to his employers’ clients in several other industries.

### A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must establish that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed that the Beneficiary could meet four of the ten criteria, summarized below:

- (ii), Membership in associations that require outstanding achievements;
- (iv), Participation as a judge of the work of others in the same field;
- (v), Original contributions of major significance; and
- (viii), Performing in a leading or critical role for organizations with a distinguished reputation.

The Director concluded that the Petitioner did not establish that the Beneficiary meets any of the claimed evidentiary criteria. On appeal, the Petitioner asserts that the Beneficiary meets the criteria related to judging, original contributions, and critical roles, and contends that the Director either

disregarded probative evidence or misapplied the law as it relates to these criteria. The Petitioner has not contested the Director's conclusion that the Beneficiary did not satisfy the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii). Issues or claims that are not raised on appeal are deemed to be waived. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009). *See also Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at \*1, \*9 (E.D.N.Y. Sept. 30, 2011) (the court determined the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

After reviewing all the evidence in the record, we conclude that the Petitioner has not established that the Beneficiary meets the initial evidence requirements for this classification.

*Evidence of the individual's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)*

The Director determined that the Beneficiary did not meet this criterion, explaining that "in an occupation where judging the work of others is an inherent duty of the occupation, simply performing one's job-related duties demonstrates competency, but is not evidence that one's 'achievements have been recognized in the field of expertise.'" For this reason, the Director concluded that the evidence related to the Beneficiary's work-related judging activities "has no probative value for this criterion."

On appeal, the Petitioner argues that the Director misapplied the law when evaluating this criterion. We agree, as the plain language of 8 C.F.R. § 204.5(h)(3)(iv) does not require a showing that the Beneficiary's judging activities demonstrate recognition for his achievements in the field. Such an analysis would be appropriate in a final merits determination to determine whether or to what extent evidence submitted in support of this criterion establishes the Beneficiary's sustained national or international acclaim.

We also emphasize that the fact that a management consultant may be required to judge the work of others as an inherent job function does not prohibit persons in this occupation from meeting this criterion. USCIS guidance on evaluating this criterion indicates that routine activities performed by professors as part of their occupation (such as peer review of manuscripts for scholarly journals and serving on Ph.D. dissertation committees) may be qualifying.<sup>1</sup> However, regardless of the field, the judging activities must be clearly described and well-documented in the record, and the evidence should demonstrate with specificity whose work and what type of work the individual judged.

Upon *de novo* review, we find insufficient evidence to establish that the Beneficiary meets this criterion. The Petitioner relies on testimonial evidence, including a letter from [REDACTED] [REDACTED] who states:

[The Beneficiary] . . . conducted an ambitious review of the [REDACTED] Finance and Transport ministries' processes and policies for developing, procuring and delivering

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<sup>1</sup> See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 8* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

road, rail and port transport projects in [redacted] This work involved comparing the [redacted] government's construction projects, policies and procedures against that of many other countries . . . This complex study required [the Beneficiary] to use his detailed understanding of many of the world's most complex transport and infrastructure organizations to determine what policies contribute positively to a successful project development and delivery process. As such [he] summarized key lessons and practices that could be implemented to resolve the challenges the [redacted] government was encountering in its own market.

The record does not contain additional evidence regarding the study referenced in this letter, and notably, the letter does not identify with specificity what work or whose work the Beneficiary judged. We cannot determine that "benchmarking," "review," or summarizing the results of a comparative study equate to "judging," particularly where the record does not identify whose work was reviewed or provide sufficient detail to adequately document the nature of the Beneficiary's activities.

On appeal, the Petitioner asserts that the [redacted] Transport Ministry deferred to the Beneficiary's guidance "on how it developed, procured and delivered every new road, railway or port in [redacted]," noting that "[every] government-led transportation project in [redacted] in its totality is a much larger body of work to judge than most infrastructure projects that require consultants, so any consultant capable of judging it must be definition exceed the norm in the field by as wide of a margin." However, [redacted]'s letter does not adequately support the Petitioner's claim that the Beneficiary has effectively judged "every government-led transportation project in [redacted]"

For similar reasons, we find a letter from [redacted] of [redacted] insufficient to demonstrate that the Beneficiary meets this criterion. [redacted] states that he supervised the Beneficiary on several projects when they both worked at [redacted] The Petitioner relies on the following passage from his letter in support of its claim that the Beneficiary has performed qualifying activities as a judge:

[The Beneficiary] and I also had the opportunity to conduct a risk assessment of the proposed [redacted] project. This [redacted] was proposed by the [redacted] and failed to progress through the design and feasibility stages to the bid phase. [The Beneficiary] supported me and a small team of consultants in a review of the project's technical and commercial challenges. Using criteria that had been developed from other project work he helped develop explanations as to why this [redacted] project . . . was unlikely to progress. As part of his professional development this particular project helped show the importance of careful preparatory work at the earliest stages of development.

[redacted]'s assertion that the Beneficiary supported his supervisor and a team of consultants "in a review of . . . technical and commercial challenges" related to this project is insufficient to establish eligibility for this criterion. In a supporting letter, the Petitioner asserts that [redacted]'s letter demonstrates that the Beneficiary has been responsible for "judging non-colleagues' infrastructure management work, like his evaluations of the [redacted]." However, the nature and source of any "infrastructure management work" reviewed by the Beneficiary remains largely unidentified in the record, and we note that [redacted]'s letter does not make any reference

to [ ] The Beneficiary's curriculum vitae lists the [ ] among the high-speed rail projects he worked on, but it provides no additional information about his activities related to this project, nor does it mention [ ]

For the reasons discussed, we conclude that the Petitioner has not established that the Beneficiary meets this criterion. Although we have considered the testimonial evidence, the record lacks specificity and corroborating evidence of the Beneficiary's role in the projects mentioned above and is insufficient to establish that his activities involved judging the work of others as contemplated by 8 C.F.R. § 204.5(h)(3)(iv).

*Evidence of the individuals original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

The Petitioner contends that the recommendation letters submitted from the Beneficiary's colleagues reflect his business-related contributions in the field.<sup>2</sup> In order to meet this criterion, a petitioner must establish that not only has the beneficiary made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Director concluded that the letters from [ ], [ ] and others illustrate that the Beneficiary "is a capable project commercial manager" but do not establish that his contributions to various projects are "both original and of major significance in the overall field." On appeal, the Petitioner asserts that the Director ignored reliable, relevant and probative evidence and incorrectly relied on *Matter of Caron Int'l Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) "to justify ignoring all letters." The Petitioner further emphasizes that expert letters that specifically articulate how the Beneficiary's contributions are of major significance in the field and their impact on subsequent work "may form the basis for meeting this criterion."

Specifically, the Petitioner relies on the letters of [ ], [ ] and [ ], CEO of [ ] to establish that the Beneficiary meets the criterion at 8 C.F.R. § 204.5(h)(3)(v).

In his letter, [ ] states that the Beneficiary "was a key contributor on numerous rail infrastructure projects" during his tenure with [ ], including "noteworthy advisory projects with [ ] in the [ ]" He briefly describes one project in which the Beneficiary "conducted workshops with public organizations, interacted with rail contractors and corporates, and ran focus groups for a supply chain market study for [ ]" [ ] also states that he "worked on another [ ] project that looked to compare this [ ] organization to and benchmark its processes for infrastructure procurement and spending programs against other railroad organizations." He notes that the Beneficiary interacted closely with French, Spanish and Italian national railways to determine how these countries modernized their national rail infrastructures and to determine "what lessons can be learnt to improve the [ ] organization's own internal processes." While [ ]

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<sup>2</sup> Although we discuss the three letters that the Petitioner emphasized in response to the Director's request for evidence and on appeal, we have considered all testimonial evidence submitted in support of this criterion.

[redacted] confirms the Beneficiary's contributions as a consultant assigned by [redacted] to the [redacted] project, he does not explain his role in detail, explain how his contributions were novel or original, or describe the remarkable influence or impact that his contributions to this project have had in the field of P3 infrastructure management. In fact, he does not describe with specificity how the Beneficiary's efforts advanced this particular project.

On appeal, the Petitioner explains that [redacted] is the first entirely domestic high-speed rail line in [redacted] history with an estimated cost that makes it one of the country's largest P3 infrastructure projects.<sup>3</sup> The Petitioner maintains that "because of its sheer size and novelty and the incredibly specialized nature of [the Beneficiary's] field, any work that considerably advances its construction is a significant contribution to the entire area of P3 infrastructure consulting." More specifically, the Petitioner states that "[h]is creation of its first benchmarks for procurement and spending therefore improve any P3 infrastructure manager and affect any such project throughout [redacted] while given how many workers are involved with [redacted]'s construction, there are unquestionably many people applying his contribution." While the Petitioner maintains that [redacted] "confirmed all of this" in his testimony, we disagree with that assertion. His letter, as noted, does not in fact address how the duties the Beneficiary performed for [redacted] on this project have advanced the construction of the [redacted] or how he has contributed "to the entire area of P3 infrastructure consulting," nor does it support a conclusion that there are "many people" applying the Beneficiary's contributions in this field. He did not, for example, explain how the Beneficiary's work on the [redacted] project was particularly impactful on other rail projects in this sector.

We do not question that the Beneficiary was a valuable member of [redacted]'s team assigned to the [redacted] project or that the project itself is a significant, high profile project. However, the Petitioner has not established that the Beneficiary's involvement on behalf of [redacted] even if it will ultimately help to "advance the construction" of the [redacted] railway, equates to an original contribution of major significance in the field.

The Petitioner similarly claims that the Beneficiary's "original contributions to the [redacted] had major significance to his entire field because it was an all-important P3 rail project." The Petitioner explains that the [redacted] is the first and only connection between the [redacted] and [redacted] ( [redacted] ) and "a vital part of the [redacted] [redacted], a program "intended to create a continent-wide P3 rail network."

The Petitioner maintains that a letter from [redacted] "explains why [the Beneficiary's] work on this project constituted a series of original contributions of major significance."<sup>4</sup> Mr. [redacted] who states that he was formerly the chief operating officer for this project, confirms that the [redacted] is "a critical part of this entire European transport corridor" and notes that the Beneficiary "was a significant advisor and contributor" throughout its construction. Specifically, he

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<sup>3</sup> The Petitioner submitted background information from the website of [redacted] (www.[redacted].org.uk) regarding the [redacted] high speed rail project, which indicates that it involves 345 miles of new high-speed track that will connect [redacted] Birmingham, Manchester and Leeds, with construction on Phase One (London-Birmingham) expected to start by 2026 and network completion by 2033.

<sup>4</sup> Another letter from [redacted] who previously worked with the Beneficiary in her role as a managing consultant with [redacted] mentions this same project in passing. She notes that the [redacted] project was one of many infrastructure projects he supported while with his previous employer.

notes that the Beneficiary's duties as "a consultant and engineer" included: reviewing the construction progress over the schedule, assessing the project's commercial requirements, ensuring payment of project funds, holding meetings with public and private stakeholders, developing solutions with senior construction and rail engineers, and facilitating the project's completion. [redacted] asserts that the Beneficiary's contributions "reduced project risks by identifying specific technical and commercial issues" and he credits him with "contributing methods for the contractor to resolve these [issues] to ensure that the project could be delivered on time and on budget." He also notes that the Petitioner returned to this project following its completion to review and develop restructuring solutions for consideration by stakeholders.

[redacted] praises the Beneficiary's "exceptional command of the wide-ranging and diverse transferable skills required for engineering, commercial and infrastructure rail and transport project delivery" and confirms that he has contributed to "many distinguished global organizations" working on "complex rail and transport projects."

As with the [redacted] rail project, the Petitioner submitted evidence demonstrating that the [redacted] was part of a significant high-speed rail undertaking. On appeal, the Petitioner maintains that [redacted] "made clear that [the Beneficiary's] original contributions had major significance to the entire field of P3 management by describing how the tunnel is a critical centerpiece of the entire [redacted] network, a continent-wide network of P3 rail lines responsible for modernizing infrastructure across [redacted]." The Petitioner states that "any work that noticeably improved" this network "must have advanced P3 infrastructure management by extension" and maintains that [redacted] testimony "described in detail how [the Beneficiary's] original contributions did that."

However, as noted, [redacted] testimony does not elaborate on how the Beneficiary's responsibilities related to the [redacted] amounted to original contributions of major significance that went on to influence or impact the field of P3 infrastructure management consulting. The Petitioner requests that we make assumptions based on the importance of the overall project, a major undertaking in which the contributions of many professionals from many organizations were undoubtedly necessary to ensure its successful completion. [redacted] brief summary of the Beneficiary's project-related contributions, without more, is not sufficient to establish that he has made contributions that were widely implemented by others in the field or otherwise impacted subsequent the P3 infrastructure management projects in a way that is considered to be of major significance in this field.

The third and final contribution referenced by the Petitioner on appeal relates to the Beneficiary's work on two [redacted] construction projects in [redacted] (known as the [redacted] routes) during his tenure with [redacted]. The Petitioner maintains that the Director "arbitrarily dismissed" the following testimony of [redacted]:

As a key member of my teams [the Beneficiary] conducted due diligence advisory projects on about 500 km of major [redacted] construction in [redacted] such as [the [redacted] and [redacted] routes]. He had a significant role in the technical, commercial and financial analysis of these two major construction projects, both of which are today in full operational 320 km/hour service. By way of explanation, the projects were funded

under a P3 model and are part of some of the longest [ ] routes delivered into operation in [ ] in the last decade.

The Petitioner maintains that “by leading the creation of two of the longest new high-speed rail lines in [ ] [the Beneficiary] undoubtedly made a contribution with major significance to the field,” and notes that “this is particularly the case given that the [ ] was just the second P3 high-speed line in [ ] history.” The Petitioner asserts that the completion of these two lines was “a historic achievement that could not have happened without [the Beneficiary’s] . . . leadership” and “his prominent role in that accomplishment undoubtedly has major significance for the field of P3 infrastructure management.”

[ ]’s testimony does not support the Petitioner’s suggestion that the Beneficiary was charged with “leading the creation” of the [ ] and [ ] high-speed rail lines and does not attribute this level of responsibility to him. He does not suggest that the Beneficiary spearheaded the entire rail delivery project or even led [ ]’s advisory contribution. In fact, [ ] indicates in his letter that he personally mentored the Beneficiary during his tenure with [ ] so that he could “develop the skills necessary to become a consultant in the role of Lenders’ Technical Advisor.” As noted, he indicates that, as a member of a team, the Beneficiary performed due diligence activities and contributed technical, commercial and financial analyses, but he does not discuss the impact of these activities on the overall project, much less in the field, nor is it clear how the Beneficiary’s contribution to [ ] and [ ] lines was novel or original.

Upon review, although the authors of the aforementioned letters demonstrate that the Beneficiary’s work is highly regarded by his colleagues, the letters do not establish how his work is viewed by the field as majorly significant. USCIS may, in its discretion, use as advisory opinions statements from universities, professional organizations, or other sources submitted in evidence as expert testimony. *Caron*, 19 I&N Dec. at 794. However, USCIS is ultimately responsible for making the final determination regarding a foreign national’s eligibility. The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id.*

Nevertheless, the Petitioner correctly emphasizes, when assessing this criterion, USCIS officers are required to take into account the probative analysis that experts in the field may provide in opinion letters regarding the significance of an individual’s contributions. Letters that specifically articulate how a beneficiary’s contributions are of major significance in the field and its impact on subsequent work add value.<sup>5</sup> On the other hand, letters that lack specifics are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>6</sup>

Here, for the reasons discussed, the Petitioner’s letters do not contain specific, detailed information identifying the Beneficiary’s original contributions and explaining the unusual influence his consulting and advisory work has had on his specialized field. Further, the Petitioner’s claims regarding the impact of the Beneficiary’s contributions are not adequately supported by the testimonial evidence. Accordingly, we conclude that the Petitioner has not demonstrated that the Beneficiary has made original contributions of major significance in the field.

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<sup>5</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

<sup>6</sup> *Id.* at 9.



*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii)

In denying the petition, the Director addressed the Petitioner's submission of three letters from its own representatives and from a representative of [ ] but concluded that the Petitioner did not establish that the Beneficiary meets this criterion. The Director determined that the letters "do not provide detailed and probative information that specifically addresses how the beneficiary's role was leading or critical for an entire organization or establishment."

Upon review, we disagree with the Director's determination and conclude that the Beneficiary meets this criterion based on his current role as a project commercial manager with the petitioning company.<sup>7</sup> As noted, the Petitioner submitted three letters from high level employees familiar with the Beneficiary's work, as well as a very detailed position description for his position which identifies its relatively senior placement within the company's hierarchy. This evidence indicates that the Beneficiary was specifically recruited by the Petitioner not only to lead commercial and contractual aspects of one of its largest and most critical P3 rail projects, but also to help shape the company's regional strategy and practice in his area of expertise to ensure the company's continued growth in the rail and transport infrastructure sector. The evidence is sufficient to establish both the Beneficiary's critical role with the Petitioner's U.S. organization and the company's distinguished reputation.

#### B. O-1 Nonimmigrant Status

We note that the record reflects that the Petitioner has been granted O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990).

Further, it must be emphasized that each petition filing is a separate proceeding with a separate record. In making a determination of statutory eligibility, USCIS is limited to the information contained in that individual record of proceedings. 8 C.F.R. § 103.2(b)(16)(ii). We are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988); *see also Sussex Eng'g, Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987).

### III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or evidence that meet at least three of the ten alternate criteria. As a result, we need not provide the type

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<sup>7</sup> The Petitioner also claimed that the Beneficiary served in a "critical or essential capacity" based on work he performed for the government of the [ ] and for [ ]. Although the Director did not address these claims in his decision, we note that this error is harmless considering our reversal of the Director's determination that the Beneficiary did not meet the criterion at 8 C.F.R. § 204.5(h)(3)(v).

of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Beneficiary has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of the Beneficiary’s work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Although the Beneficiary has worked for employers that enjoy a distinguished reputation in the transportation and infrastructure consulting field and provided advisory and consulting services on some high profile projects, the record does not demonstrate that the Beneficiary has garnered national or international acclaim in the field, and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated the Beneficiary’s eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.